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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/725,703

12/02/2003

Steven C. Johnson

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4761

7590

06/10/2005

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EXAMINER

JOHNSON, STEPHEN

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,703

Applicant(s)

JOHNSON, STEVEN C.

Examiner

Stephen M. Johnson

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/19/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 5-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, line 1, the phrase "light bending elements" should be claimed as [the light bending elements] if the previously claimed light bending elements are intended. In claims 8-12, use of the phrases "gear-like ridges"; "gear-like linkage"; and "gear-like link" make the claims indefinite as to how closely related to a gear the structure must be to infringe the claims. In claims 6-7, use of the phrase "cable-like linkages" makes the claim indefinite as to how closely related to a cable the structure must be to infringe the claims.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 8-12, and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Malinowski.

Malinowski discloses an aiming device comprising:

- | | |
|--|---------------------|
| a) a projectile launcher; | col. 1, lines 16-19 |
| b) first and second light bending elements (prisms); | 7a, 7b |
| c) a rotation mechanism; | see figs. 3, 4 |
| d) synchronous rotation in opposite directions; | col. 4, lines 45-48 |
| e) a calibration element; | col. 5, lines 58-60 |
| f) connection between amount of rotation and amount of | col. 4, lines 54-66 |

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displacement of the line sight;

- | | |
|--------------------------------|-----------------|
| g) rotatable rings; | 8a, 8b |
| h) elongate tubular shell; and | see fig. 4 |
| h) gear-like linkage. | 18b, 19, 12, 13 |

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malinowski in view of Wallner et al..

Malinowski applies as previously recited. However, undisclosed is a friction engagement element that includes a plurality of rollers. Wallner et al. teach a friction engagement element that includes a plurality of rollers #42. Applicant is selecting a particular device for permitting friction between the prisms and their housing during adjustment in this art. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Wallner et al. to the Malinowski optical device and have an optical device that includes friction rollers associated with the adjustable prisms.

6. Claims 6-7 are too indefinite in their current form to make a determination regarding patentable subject matter.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ives, Miki et al., Ziolkowski et al., Luboshez, Berry Jr. et al., and Allen disclose other state of the art optical devices.

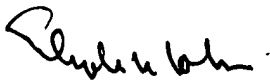
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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877.

The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ
June 8, 2005